IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA NO. 16CR43

Plaintiff,

vs.

LEANNA HESKETT

Defendant.

- - -

NO CONTEST PLEA

AUGUST 1, 2-16

BEFORE THE HONORABLE THOMAS M. ROSE

APPEARANCES:

ON BEHALF OF THE GOVERNMENT

Vipal Patel
Asst. U. S. Attorney
200 West Second Street
Dayton, Ohio 45402

ON BEHALF OF THE DEFENDANT

Thomas Anderson
Asst. U.S. Public Defender
Dayton, Ohio 45402

1:35 p.m.

THE COURT: Thank you. Be seated. We are before the Court this afternoon in the matter of United States of America versus Leanna Heskett. This is case 16CR43. And we are here for the purposes this afternoon for the Court to entertain a plea of no contest by Ms. Heskett.

Would counsel enter their appearances for the record, please?

MR. PATEL: Good afternoon, Your Honor. Vipal Patel for the United States.

MR. ANDERSON: Good afternoon, Your Honor. Thomas Anderson appearing on behalf of Ms. Heskett. Ms. Heskett injured her foot sometime ago. With the Court's permission if she may remain seated she might have difficulty standing for the duration of the hearing.

THE COURT: She can remain seated. I need when you are referred to Ms. Heskett and I am asking you to respond, please try to keep your voice up so we can all hear you. Okay.

THE DEFENDANT: Okay.

MR. ANDERSON: Thank you, Judge.

THE COURT: Again, of course, the taking of this no contest plea is within the discretion of the Court. The Government's position however is, Mr. Patel?

MR. PATEL: Your Honor, we object and oppose to the Court taking of a no contest plea in this case. The reasons are multiple. No contest pleas are, of course, rare. Should be used sparingly. The times where they have been used are instances typically in run of the mill white collar cases, which this admittedly is. But where there are concerns over the consequence of the guilty plea in collateral litigation, such as a pending civil lawsuit or something of that sort. While there has been threatened civil litigation, there is no actual civil lawsuit happening.

And for that reason as well as for the appearance of justice for all of the reasons set forth in the United States Attorney Manual that governs the Department of Justice's position when dealing with no contest pleas, the Government opposes.

THE COURT: All right. Thank you. Anything, Mr. Anderson?

MR. ANDERSON: Judge, thank you I will be brief. We met in chambers. We have put on the record in chambers the reason for Ms. Heskett's desire to enter this plea. We ask the Court to accept this guilty plea.

THE COURT: No contest plea.

MR. ANDERSON: Excuse me. No contest plea. Judge, while Mr. Patel at this time there is no formal action pending. That action is still in the administrative phases. There has been an attorney consulted. I have had conversations that I can proffer to the Court that it was the advice of this civil attorney that Ms. Heskett explore the possibility of asking the Court to allow her to plead no contest in this matter.

From a practical pragmatic standpoint the nature of the case is such that at the disposition phase should the Court indeed find Ms. Heskett guilty there would be virtually absolutely no difference between the taking of a no contest plea or a guilty plea with respect to the applicable sentencing guidelines or the range of sentences available to the Court. Thank you.

THE COURT: Well, the Court agrees with the Government that it should be extremely rare and sparingly used. The Court would indicate that no one should take the Court's election here in its discretion to consider this no contest plea a precedent but the Court has decided based upon all of the information that has been provided to the Court to entertain a no contest plea in this the matter. So, everyone ready to proceed then?

MR. PATEL: Yes, Your Honor.

MR. ANDERSON: Yes, Your Honor.

THE COURT: It is my understanding that Ms. Heskett will be pleading to Count 1 of the indictment which alleges delay or destruction of mail, a violation of 18 United States Code 1703(A). Mr. Patel, is that correct?

MR. PATEL: That is, Your Honor.

THE COURT: And, Mr. Anderson, Ms. Heskett understands the charge against her and you believe she is ready to go forward with her plea?

MR. ANDERSON: Yes, Your Honor.

THE COURT: Is that correct, Ms. Heskett, you ready to go forward?

THE DEFENDANT: Yes.

THE COURT: In order for me to consider your plea of no contest the Court has to ask you a number of questions. Those questions must be asked of you while you are under oath. The oath is to assume that your responses are truthful and complete. However, I also need to indicate to you that once you take the oath you could be prosecuted for perjury or false swearing if your answers were not truthful. You understand that?

THE DEFENDANT: Yes.

THE COURT: Understanding that do you still wish to go forward with your plea of no contest?

THE DEFENDANT: Yes.

THE COURT: I would also indicate to you that the Court would entertain and if the Court does accept your plea of no contest then the Court would make a determination of guilt or innocence based upon a factual statement that will be read upon the record by the Government to which by a plea of no contest you are not contesting. And, of course, the Court then would make a determination of guilt or innocence based solely upon that statement of facts. Do you understand?

THE DEFENDANT: Yes.

THE COURT: Understanding that, do you still wish to go forward with your plea of no contest?

THE DEFENDANT: Yes.

THE COURT: Would you please raise your right-hand?

(Swearing in the Defendant)

THE COURT: All right. Why don't we start, Ms. Heskett, can you please state your full name for the record?

THE DEFENDANT: Leanna Marie Heskett.

THE COURT: Ms. Heskett, how old are you?

THE DEFENDANT: Forty-seven.

THE COURT: And can you tell me the year that you were born?

THE DEFENDANT: 1969.

THE COURT: And how far in school did you go?

THE DEFENDANT: I graduated.

THE COURT: Where from?

THE DEFENDANT: Springfield South High.

THE COURT: And after you graduated from Springfield South High did you do anything further, any other educational endeavors such as college, technical school, vocational schools of any type. Anything like that?

THE DEFENDANT: I tried one but I couldn't catch onto the typing.

THE COURT: But you did graduate from

high school from Springfield South. When was that? What was your graduating year?

THE DEFENDANT: 1988.

THE COURT: All right. Well let me ask you this. Do you have any difficulty in understanding, reading or writing the English language?

THE DEFENDANT: No.

THE COURT: Do you have any difficulty in communicating with or understanding Mr. Anderson in the discussions about your case?

THE DEFENDANT: No.

THE COURT: About the charges against you?

THE DEFENDANT: No.

THE COURT: About the facts that you believe or that Mr. Anderson has reviewed and talked with you about to which are being alleged against you? Do you have any questions about the facts?

THE DEFENDANT: Oh, no.

THE COURT: Now, you have reviewed with Mr. Anderson a number of documents. One is that factual statement that we talked about that we are going to talk about in a little while. But the other document that is very important is that indictment.

The indictment is the document that has been returned by the grand jury of this district indicating or charging you with a number of counts. And specifically we are dealing here today with Count 1 of that indictment. You have reviewed the indictment against you with Mr. Anderson's help and after that review, do you believe that you fully understand what is alleged against you in Count 1 of the indictment?

THE DEFENDANT: Yes.

THE COURT: Do you have any questions or concerns about the charge against you in Count 1 at this time?

THE DEFENDANT: No.

THE COURT: All right. It is not only important that you, of course, understand what is going on here and you understood what Mr. Anderson has talked with you about in preparation for this hearing and understand what is going on here in the hearing. As I indicated it is important that you understand what the charge is against you to which you are pleading no contest.

But also it is very important that you understand the facts that are alleged against you in this plea of no contest. Because again that factual statement will be the statement upon which this Court will base its determination of guilt or innocence. You understand that?

THE DEFENDANT: Yes.

THE COURT: And you have indicated that you have reviewed that statement with Mr. Anderson prior to this hearing. Is that correct?

THE DEFENDANT: Yes.

THE COURT: And you have indicated that your questions and concerns about that factual statement, if any, have been answered and addressed. Is that correct?

THE DEFENDANT: Yes.

THE COURT: And you fully understand the facts that are being alleged against you?

THE DEFENDANT: Yea.

THE COURT: Well, what I would like to do is acknowledge that. And I am going to do it in this manner. I am going to have Mr. Patel, although it is a lengthy read, I am going to have him read those two pages. I want you to listen carefully as he reads them. You may have a copy of the factual statement there in front of you. You can follow right along with him.

Once he is done reading. I am going to ask you the following questions. I am going to ask you whether you understood the facts. Whether you have any questions about what he read. Are those the facts to which you wish to enter a no contest plea. You understand?

THE DEFENDANT: Yes.

THE COURT: All right. And then we can acknowledge then, what I am going to do is have you execute along with Mr. Anderson and Mr. Patel that factual statement so we all understand we are on the same page here. Okay?

THE DEFENDANT: Okay.

THE COURT: Mr. Patel, if you would, please?

MR. PATEL: Thank you, Your Honor. Were this case to go to trial and the Government were to prove each and every element of the counts charged in the indictment, including Count 1. The proof would include evidence of the following facts.

And they are as follows: The Defendant, Leanna Heskett was employed by the United States postal service as a mail processing clerk from October 1998 until November 3, 2015 when she was terminated due in part to her theft of mail as described herein.

Her primary place of employment was the

Springfield, Ohio post office withing the Southern District of Ohio. As a mail processing clerk Heskett's job duties included sorting and processing mail for Zones 5 and 6 of the Springfield, Ohio area which includes the 45505 and 45506 zip codes. She would assist with sorting mail for other zones as needed. She often wore sweatpants and an apron with front pockets to work.

On or about February of 2014 and continuing to June of 2015 the United States Postal Service Office of Inspector General received information from the United States Postal Service that customers in the 45505, 45506 and other zip codes had been complaining about mail not being delivered.

The United States Postal Service Office of Inspector General investigated and determined that Heskett had been opening and stealing mail during the mail sorting process at the Springfield, Ohio Post Office.

Specifically between an exact beginning date unknown but at least on or about May 2015 and on or about June 10, 2015 within the Southern District of Ohio Heskett secreted, destroyed, contained, delayed, and opened letters packages and other mail which had come into her possession and which were intended to be conveyed by mail and carried and delivered by a United States Postal Service Carrier or other United States Postal Service Employee.

For instance at the Springfield, Ohio Post Office, during the mail sorting process, Heskett secreted, destroyed, detained, delayed or opened the following mail.

A. On May 5, 2015 Heskett placed mail packages into her pants on two separate occasions, totaling at least two packages during this work day. On at least one occasion after placing the packages in her pants she left the area for at least nine minutes. That is the factual basis the Government would prove specifically as to Count 1 to which I understand the Defendant is pleading no contest.

In addition the Government at trial would prove these facts as well.

B. On May 6^{th}, 2015 Heskett placed at least one mail package in her pants.

C. On May 7^{th}, 2015, Heskett opened a mail package, looked at what was inside, closed the package and placed it back into the mail stream.

D. On May 8^{th}, 2015, Heskett placed mail packages into her pants on five separate occasions totaling at least eight packages during this work day. She left the area for several minutes each time.

E. On May 13, 2015 Heskett opened at least one mail package, placed the contents inside the front of her pants and then resealed the package with tape.

F. On May 15th, 2015, Heskett placed a mail package in her pants. She then left the area for approximately 20 minutes.

G. On May 16th, 2015 Heskett opened at least one mail package and then placed an item in her shirt.

H. On May 19th, 2015 Heskett placed mail packages into her pants on five separate occasions totaling at least seven packages during this work day. She also opened at least three packages and resealed at least one.

I. On May 20th, 2015 Ms. Heskett placed mail packages into her pants on three separate occasions totaling at least three packages during this work day. She also opened at least one package, removed the contents and then resealed the package.

J. On May 21, 2015 Ms. Heskett placed at least one mail package into her pants. She also opened at least four packages and resealed at least one.

K. On May 22, 2015 Heskett placed at least one mail package in her pants and and one package down her shirt. She also opened at least two packages.

L. On May 27th, 2015 Heskett placed mail packages into her pants on two separate occasions totaling at least two packages during this work day.

M. On May 28th, 2015 Heskett placed mail packages into her pants on five separate occasions, totaling at least five packages during this work day.

N. On May 29th, 2015 Heskett placed mail packages into her pants on two separate occasions totaling at least two packages during this work day. She's also opened a package, shook out the contents then resealed the box.

O. On May 30, 2015, Heskett placed mail packages into her pants on three separate occasions totaling at least four packages during this week day. She also opened two packages and then resealed at least two packages.

P. On June 1, 2015 Heskett opened a mail package took the contents from the package and placed it in her pants and then resealed the package.

Q. On June 2, 2015 Heskett placed mail packages into her pants on three separate occasions totaling at least three packages during this work day.

R. On June 3, 2015 Heskett placed at least one mail package into her pants.

S. On June 4, 2015 Heskett placed at least one mail package into her pants. She also opened at least three packages and resealed at least one package.

T. On June 5, 2015 Heskett placed mail packages into her pants on five separate occasions, totaling at least five packages during this work day.

U. On June 9, 2015 Heskett placed mail packages into her pants on two separate occasions totaling at least two packages during this work day. She also oened at least one package from that same cart.

And V. On June 10, 2015, Heskett placed at least one item from a mail package into her pants.

All of the mail mentioned herein had come into her possession during the mail sorting process at the Springfield, Ohio post office. And they were intended to be conveyed by mail and carried and delivered by the U.S. Postal Service mail carrier or other United States Postal Service employee.

Heskett however opened the mail before

delivery, opened the mail and stole the contents thereof before delivery of the remants or stole the mail in its entirety.

Your Honor, the proof at trial would also include surveillance footage, which would have depicted all the instances that I just read when I gave a date and a description of what occurred.

There also would have been testimony from a former colleague of Ms. Heskett who received a call from Ms. Heskett after she had been interviewed by the postal inspectors and made a comment to the colleague to the affect of: They caught me, or words to that affect.

Thank you, Your Honor.

THE COURT: All right. Thank you. Mr. Patel, with regard to the reading of the facts the inquiry that the Court will have of Ms. Heskett is whether or not she wishes to plead no contest to the reading of those facts as relevant to the incident that occurred on May 5th. I am assuming that is where we are at?

MR. PATEL: Well, Your Honor, she is pleading no contest to the charge in the indictment. As to the statement of facts I believe Your Honor is free to ask her: Are those facts true? Not just the

May 5 ones but all of them. And if she wishes to decline them I am sure the Court can take that into account at sentencing when it assesses whether she has accepted responsibility.

MR. ANDERSON: Your Honor, thank you. Pursuant to the agreement Ms. Heskett at this time would enter a no contest plea to all of the facts that were read by Mr. Patel. Specifically including those facts that pertain to the count in the indictment to which the formal no contest plea would be entered.

THE COURT: All right. That is your understanding, Mr. Patel?

MR. PATEL: I don't know how to answer that, Your Honor. Counsel prefaced his comments saying pursuant to the agreement. There is no agreement for point of clarification and I believe she is free to enter a no contest plea as well as not to contest --

THE COURT: So, other than what Mr. Anderson stated, other than Mr. Anderson's initial statement purusant to an agreement, you are in agreement with what Mr. Anderson stated that she wishes to enter a no contest plea to the entire factual statement that has been read.

MR. ANDERSON: That is correct, Your Honor.

MR. PATEL: That is my understanding of what she is doing.

THE COURT: Okay. Thank you. Ms. Heskett, do understand what Mr. Patel read onto the record?

THE DEFENDANT: Yes.

THE COURT: Do you have any questions about about any of those facts that are being alleged?

THE DEFENDANT: No.

THE COURT: Are those the facts to which you wish to enter a plea of no contest to?

THE DEFENDANT: Yes.

THE COURT: All right. That is the extent of my questioning, Mr. Patel. Since we are not doing a guilty plea I am not going to ask the fourth question.

MR. PATEL: I understand, Your Honor.

THE COURT: All right. Well to acknowledge Ms. Heskett's plea of no contest to the statement of facts or acceptance of those statement of facts as the facts to which she wishes to enter a no contest plea, I would ask that we, as we usually do, acknowledge her acceptance of those facts as the facts to which she is pleading no contest by having her initial the bottom of page one and two. I would also ask that Mr. Anderson and Mr. Patel also initial the bottom of those pages.

MR. ANDERSON: That has been executed, Your Honor.

THE COURT: Ms. Heskett, it is important not only that you understand, of course, the charge against you to which you are entering a no contest plea to and the facts to which you are pleading no contest to. It is also important in order that this plea of no contest be accepted that I am fully aware and I do understand that you are aware of several other things. And one of those things is disposition. That means that, as I indicated to you, once you enter a no contest plea and the Court accepts that no contest plea, the Court will make a determination of your guilt or innocence based solely upon the facts that have just been read upon the record.

Now, if the Court returns a verdict of guilty based upon your no contest plea and those facts, then the Court needs to assure itself that you understand in entering this no contest plea, you understand what possibly can happen if the Court makes a finding of guilty. Do you understand?

THE DEFENDANT: Yes.

THE COURT: So, we are going to talk about disposition a little bit. We are going to talk about what possibly could happen. I am not saying it is happening. I am saying I have got to tell you everything that could happen.

THE DEFENDANT: Okay.

THE COURT: Let's talk a little bit about, one, the maximum penalties that the Court could impose. It is my understanding that by a plea to this count of the indictment, Count 1 of the indictment, that is punishable by a maximum of up to five years of incarceration. Is that your understanding?

THE DEFENDANT: Yes.

THE COURT: And you have any questions about that?

THE DEFENDANT: No.

THE COURT: If the Court elected to impose a fine for this offense, the Court could fine you up to $250,000. Is that your understanding?

THE DEFENDANT: Yes.

THE COURT: Do you have any questions

about that?

THE DEFENDANT: No.

THE COURT: It is also my understanding, correct me if I am wrong, Mr. Patel it is my understanding supervised release could be anywhere from three years to life. Is that correct? I didn't think so. I am reading a note. I was wondering.

MR. PATEL: Maximum of three years.

THE COURT: Maximum of three years. Supervised release, Ms. Heskett, is a term that is used to describe a time of supervision. If an individual is incarcerated, once they get out then they are placed under supervision, meaning that they have got to abide by rules and regulations and conditions. They are supervised by the Court. If they violate one of those conditions or rules or regulations the Court could impose sanctions. I could make rules stricter. I could add rules. I could do all sorts of modifications to that status.

I could also revoke that status and impose a term of re-incarceration. Do you understand?

THE DEFENDANT: Yes.

THE COURT: And in your situation, if the Court finds you guilty bsed upon your no contest plea of this Count 1 the Court could impose up to those maximums. Do you understand that?

THE DEFENDANT: Yes.

THE COURT: Do you have any questions about any of those?

THE DEFENDANT: No.

THE COURT: The only other thing that I would. Well, two other things. One I would indicate to you that there is a mandatory special assessment with regard to Count 1 of this indictment. It is a $100.00 special assessment. That is not like a fine which I can impose or not impose, that must be imposed. It is mandatory and it must be imposed upon you. So there is a $100.00 special assessment that must be imposed. Do you understand?

THE DEFENDANT: Yes.

THE COURT: Any questions about that?

THE DEFENDANT: No.

THE COURT: All right. The other thing that I would indicate to you is that if restitution is something that is part of this case the Court could and would order restitution if appropriate. Do you understand?

THE DEFENDANT: Yes.

THE COURT: Okay. Do you have any

questions about those maximum sanctions or penalties that could be imposed?

THE DEFENDANT: No.

THE COURT: You must understand those are maximums. The Court hasn't gone there yet. I have a lot of discretion. But it is important for me to understand that you understand what possibly can happen. So, do you have any questions about those things?

THE DEFENDANT: No.

THE COURT: All right. Well, then let's talk about another aspect of disposition. It is not only important if you are found guilty to understand what possibly can happen, but I need to also tell you how I arrive at a sentence or sanction or dispositions. And it is fairly simple to understand. But I am going to run through these and make sure that you understand what the Court would be doing if I accept your no contest plea and then make a finding of guilty refer this matter for a disposition.

The first thing that I look at, Ms. Heskett is I try to find out everything that I can about the case. They call that the nature and circumstance of the case. It is important for me to impose an appropriate or a just sentence. And the only way to do that is if I know as much about what happened here as I can find out. I also need to know as much as about you as I can. Obviously I need to know what happened, who you are and how this all occurred.

Once I look at that then I look at the types of sentences that are available to me. Again we have already reviewed the maximum penalties that the Court could impose for this count. The Court has a lot of discretion below the maximums. But I look at everything about the case and you. And then I look at what type of sentences I believe are available and appropriate for your situation.

As part of that analysis I also look at you and this offense in comparison to other situations which we call similarly situated, meaning someone who has violated the same law. Someone who has violated a similar law. Someone with kind of a background, history or characteristic of you. Basically someone kind of in your position because I need to keep not only my sentence just I need to keep them consistent as possible over similarly situated offenses. Every offense is different but there is and should be some consistency in the Court imposing dispositions with regard to like matters.

In looking at those things then, of course, it is my objective to come up, as I indicated, with a just sentence. And a just sentence, Ms. Heskett, is a sentence that reflects the seriousness of what has occurred, seriousness of the offense and promotes respect for the law. Because I start out with a rebuttable presumption that an individual who violated the law, he or she, didn't understand how serious a matter they were getting into and didn't respect the law. So I am going to look to you and Mr. Anderson to tell me where you are now. Have you gained some appreciation for the seriousness of what you have done, if the Court indeed finds that you have committed this offense. And have you gained some respect for the law, if indeed the Court finds you have violated the law.

So I need to hear things about those items in this disposition because if I don't hear that an individual has gained some respect for the law and appreciates the seriousness of what they have done then I start worrying about a couple of other factors in the disposition process and that is that person is going to reoffend because they don't appreciate what they have done. And they don't respect the law.

So what keeps them from reoffending. Do I have to protect the public from them. And protect the public means a lot more than just protecting the public from a violent offense. Protecting the public means all types of offenses.

So, as you can see it has got kind of a thread. What happened, who you are. The types of sentences that are available and types of sentences that is appropriate to appreciate the seriousness of what has been done, promote respect for the law so I don't have to worry about someone reoffending and protecting the public from that individual.

So that it is of a progression. I also look, of course, at other things. Other things such as is there any educational or vocational things that might be part of a dispositional process that would assist, help someone kind of going in a different direction. Any kind of medical care. Any type of correctional treatment that would be necessary regardless of what type the disposition is. Whether it is an incarceration or a none incarceration disposition.

So, I look at all of those things. And all of those things point me in a direction of coming up with a just sentence, a sentence that meets the goals of sentencing but not more than is necessary.

Do you have any questions about those factors?

THE DEFENDANT: No.

THE COURT: Mr. Anderson, have you talked to Ms. Heskett about the final factor of disposition or the final factor of sentencing meaning the advisory guideline?

MR. ANDERSON: I have, Your Honor.

THE COURT: Can you share with the record your discussion, a summary of your discussions with her and your belief of whether or not she understands how they work generally and how it may affect the Court's disposition process.

MR. ANDERSON: Judge, thank you. Should her no contest plea result in a conviction the sentencing guidelines would be applicable in determing the advisory guideline range. We have discussed how the advisory guidelines work in general.

And specifically I made an estimate based on what I believe would be readily provable by the Government at a disposition. The guideline utilizes 2B1.1 the base offense level of six given the statutory maximum penalty in this case.

Judge, I don't believe that there would be a specific offense charancteristic of loss amount given the nature of the allegations and what could be proven. I do believe however, Your Honor, in estimating the guidelines there would be a two level increase pursuant to the specific offense characteristic of the number of victims involved in the offense, more than then. That would be a two level enhancement raising the offense level to eight.

Judge, I do believe based on the guideline 3B.13 which talks about abuse of position of trust given her employment at the time with the United States Postal Service I do believe a two level enhancement is called for under the guideline raising the offense level by an additional two points to a ten.

I am unaware of any prior criminal history that Ms. Heskett possesses. I do believe she would be a Criminal History Category I, a total offense level of ten, when matched with a Criminal History I calls for an advisory sentencing guideline range of six to twelve months which is in Zone B of the sentencing guidelines.

Your Honor, this Court will make a determination as to whether or not acceptance of responsibiity is warranted at the time of disposition.

Should that be the case that would reduce the offense level of two to a net offense level of eight. That would result in an advisory guideline range of zero to six. That is actually in Zone A of the sentencing guideline. And so there are two possible estimated guideline ranges depending on how the Court would adjudicate the issue of the acceptance of responsibility.

Ms. Heskett understands those are advisory, Judge, that those are a starting point for the Court. She understands that the Court has complete discretion in sentencing in this matter.

THE COURT: All right. Thank you. Ms. Heskett, did you understand Mr. Anderson's discussion and explanation of the factor being the advisory guideline calculation?

THE DEFENDANT: Yes.

THE COURT: And you understand that although Mr. Anderson probably does this as much as any other counsel in the Miami Valley and has gained a great deal of expertise in this calculation and the estimates that he makes, they can only be estimates they can't be guarantees. And it is not a deficiency with him. It is just the mere fact that I make the final decision. Do you understand?

THE DEFENDANT: Yes.

THE COURT: Understanding that, do you have any questions about any of the factors of sentencing including the guideline calculations or any of the maximum sentences or dispositions that could be imposed that we just talked about?

THE DEFENDANT: No.

THE COURT: Mr. Patel, have I left anything out of disposition?

MR. PATEL: Not that I am aware of, no, thank you.

THE COURT: Mr. Anderson.

MR. ANDERSON: No, Your Honor.

THE COURT: Let's move onto just a couple of other areas. You know that you don't have to enter this plea of guilty. You can plead not guilty and go to the trial. I am sorry. You don't have to enter a plea of no contest. That shows you how rarely we do this. No contest.

THE DEFENDANT: Yes, I understand.

THE COURT: You can continue to plead not guilty or plead not guilty, continue to plead not guilty and go to trial. If that was the case what we would do is select a jury. We would put the burden upon the Government to prove everything that they are alleging against you beyond a reasonable doubt. You don't have a burden. You wouldn't have to prove anything. You wouldn't have to do anything. You wouldn't have to say anything. It is up to them to prove everything that they are alleging.

Now, even though you have no burden you don't have to say or do anything. Mr. Anderson could fully participate in the trial. And he could review the Government's evidence, observe the Government's evidence. He could cross examine the Government's witnesses. If he had witnesses that he believed that he could call in your case, he could call witnesses on your behalf. If these people were hesitant to appear in the Court I would compel them to at least attend. He could argue your case to the jury.

If the jury did return a verdict or verdicts against you you would have a right to appeal that verdict or those verdicts to the Court of Appeals.

Now that is a Constitutionally guaranteed right that you have. It is your right. No one elses. No one can take it from you. The Government can't. The Court can't. No one can take it. But you can give it up and by entering a no contest plea you would be, as we have indicated entering a no contest plea to the facts that have been read here upon the record, you would be giving up that jury trial process. Do you understand?

THE DEFENDANT: Yes.

THE COURT: Understanding that, do you still wish to go forward with your no contest plea?

THE DEFENDANT: Yes.

THE COURT: All right. Now, Ms. Heskett, has anyone promised you anything in return for your no contest plea?

THE DEFENDANT: No.

THE COURT: Is there anyone forcing you, threatening you, compelling you to enter this no contest plea against your will?

THE DEFENDANT: No.

THE COURT: This is your decision after discussing it with counsel, this is what you have decided and this decision is a voluntary decision upon your part. Is that correct?

THE DEFENDANT: Yes.

THE COURT: Have you had any kind of drugs, alcohol or medication within the last 24 hours?

THE DEFENDANT: No.

THE COURT: So you are clear headed here this afternoon. You know exactly what you are doing. Is that correct?

THE DEFENDANT: Yes.

THE COURT: Have you been able to understand everything that I have said and everything that Mr. Anderson and Mr. Patel has said here today in Court?

THE DEFENDANT: Yes.

THE COURT: Do you have any questions about anything that has gone on here this afternoon that we have not clearly explained or that you may have a question about?

THE DEFENDANT: No.

THE COURT: Mr. Anderson, do you consider Ms. Heskett competent to enter a plea of no contest?

MR. ANDERSON: Yes, Your Honor, I do.

THE COURT: Is there anything further. Anything, Mr. Patel, that I have left out?

MR. PATEL: I may have missed it, Your Honor, and this may be a given since she's been appointed counsel. But did the Court cover her right to counsel, not just at trial but at all proceedings as well.

THE COURT: Well, since she has counsel sitting beside her. Have you had counsel the entire time, Ms. Heskett?

THE DEFENDANT: Yes.

THE COURT: And you have always been represented throughout. Is that correct?

THE DEFENDANT: Yes.

THE COURT: All right. Mr. Anderson, anything else that we need to cover?

MR. ANDERSON: I don't believe so, Judge, thank you.

THE COURT: Then, Ms. Heskett, it is back to you. You have indicated that you have understood everything that we have discussed. You have understood all of the factors of sentencing, the maximums that could be imposed. You have indicated that you have fully understand and you have accepted the factual statement that has been read upon the record as the facts to which you wish to enter a no contest plea so, are you ready to go forward with your plea?

THE DEFENDANT: Yes.

THE COURT: Do you understand the facts that have been alleged by the Government and have been read on to the record?

THE DEFENDANT: Yes.

THE COURT: Ms. Heskett, how then do you wish to plead to Count 1 of the indictment that alleges a violation of delay or destruction of mail a violation of 18 United States Code 1703(a).

THE DEFENDANT: No contest.

THE COURT: All right. The Court would accept Ms. Heskett's plea of no contest and would make also the following findings. The Court finds that Ms. Heskett, after our discussions here for 40 or 45 minutes, is in full possession of her vaculties and is competent to enter her no contest plea. That she is not under any influence of narcotics, hallucinogens, alcohol or medication. That she understands the nature of the charge, Count 1 of the indictment to which she has pled no contest.

She understands also the penalties that are provided by law for that violation if the Court accepts her plea of no contest and subsequently makes a finding of guilty. The Court also finds that she understands all of her Constitutionally guaranteed rights and processes and that by entering this plea of no contest she is knowingly and intelligently giving up those processes and those rights.

The Court finds based upon the reading of the factual statement upon the record by Mr. Patel that there is a factual basis for her plea. The Court is going to order that that factual statement, of course, be recorded in the record and be made a part of the record.

The Court also finds that she has, again, entered a no contest plea voluntarily because as she has indicated this is a knowing and voluntary plea of no contest that is a not being compelled, forced or in any way not her own decision.

So therefore the Court does accept her plea of no contest. And it will be made a permanent part of the record in this case. The Court based upon her plea of no contest and based upon the consideration of the Court of the factual statement that has been read upon the record by Mr. Patel and based upon the acceptance of that factual statement as the statement of facts to which she is pleading no contest, the Court does find this Defendant, Leanna Heskett guilty of delay or destruction of mail in violation of 18 United States Code 1703(A).

Now, Ms. Heskett I have accepted your plea of no contest and based upon that plea and the factual statement I have found you guilty of Count 1. I am going to send this matter or refer the matter to the probation department for a pre-sentence investigation. They will issue a report and recommendation to the Court with regard to any disposition or sentence. And you will receive a copy of that pre-sentence report and its recommendations. Of course the Government will receive such report too. You will have an opportunity to, as well the Government, to respond, reply and/or object to any portion of the pre-sentence report.

Now, if either you or the Government wish to submit a sentencing memorandum -- any sentencing memorandum filed by either side must be filed no later than seven business days following the investigative report being issued. If there is a sentencing memorandum filed and counsel wishes to file a motion or a response opposing that sentencing memorandum, that must be filed no later than five business days following the receipt of the sentencing ing memorandum.

The Court then, after a review of those memorandum and/or responses, replies or objections finds that it is necessary for a hearing, the Court would -- or a continuation of the disposition counsel will be notified.

So, Ms. Heskett, what we are going to do then we are going to set your matter for disposition on Wednesday November 22 at 10:30.

Do you have any questions about anything that the Court has done here this afternoon?

THE DEFENDANT: No, sir.

THE COURT: Anything, Mr. Anderson?

MR. ANDERSON: No, Your Honor. Thank you.

THE COURT: Mr. Patel?

MR. PATEL: Nothing as far as the plea, Your Honor. If we could speak about the remaining counts.

THE COURT: Okay. You want to speak for the record?

MR. PATEL: Yes, Your Honor.

THE COURT: You may.

MR. PATEL: I believe we would need to set a trial date to protect the record. And we ask that the appropriate speedy trial findings be made from now until the new trial date. We would simply ask for some time to consider our position as to whether we will be seeking to dismiss the remaining counts or asking for a trial. And we can make that decision fairly quickly, Your Honor, and advise the Court and counsel accordingly.

THE COURT: Do you have a speedy trial calculation at this time?

MR. PATEL: Not at this time. I don't believe much time has been used up because this was set for a plea pretty early on. But out of an abundance of caution I believe that if it was set for 30 days from now the Court could make an ends of justice finding based upon the time that it has taken to consider the plea as well as give the Government time.

THE COURT: Why don't I do this. I will set the trial date. Counsel will be notified. I will set the trial date somewhere 30 and 45 days out. We have a trial date of August 29th at 9:00 o'clock. And obviously, counsel, if for some reason this matter doesn't resolve then the Court will entertain, not pre-determining, any kind of a motion that may be appropriate based upon this fairly quick trial set. So, August 29th, 2016 at 9:00. The sentencing however on Count 1 is November 22nd at 10:30.

MR. PATEL: Okay, Your Honor.

THE COURT: Thank you very much.

(Court recessed at 2:30)

C E R T I F I C A T E

I, Leslie Foley, Registered Professional Reporter and Notary Public in and for the State of Ohio do hereby certify that the foregoing transcript is a true and accurate transcript of my stenographic notes taken in the captioned case:

I further certify that I am not attorney for nor am I related to any of the parties to this action or financially interested in the action;

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this 29th day of September, 2016.

S/Leslie Foley
Leslie Foley, RPR, CP.
Notary Public in and for
the State of Ohio.
Comm. exps. 8-31-2019